

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>UNITED ELECTRIC CO-OP, INC. AND THE</b>	)	<b>CASE NO. GNR-E-03-4</b>
<b>EAST END MUTUAL ELECTRIC COMPANY,</b>	)	
<b>LTD FOR AN ORDER APPROVING A SERVICE</b>	)	
<b>TERRITORY AGREEMENT PURSUANT TO</b>	)	
<b>IDAHO CODE § 61-333(1).</b>	)	
_____	)	
	)	
<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>UNITED ELECTRIC CO-OP, INC. AND THE</b>	)	<b>CASE NO. GNR-E-03-7</b>
<b>FARMERS' ELECTRIC COMPANY, LTD FOR</b>	)	
<b>AN ORDER APPROVING A SERVICE</b>	)	
<b>TERRITORY AGREEMENT PURSUANT TO</b>	)	
<b>IDAHO CODE § 61-333(1).</b>	)	
_____	)	
	)	
<b>IN THE MATTER OF THE APPLICATION OF</b>	)	<b>CASE NO. GNR-E-03-8</b>
<b>UNITED ELECTRIC CO-OP, INC. AND</b>	)	
<b>RIVERSIDE ELECTRIC COMPANY, LTD FOR</b>	)	<b>NOTICE OF APPLICATIONS</b>
<b>AN ORDER APPROVING A SERVICE</b>	)	
<b>TERRITORY AGREEMENT PURSUANT TO</b>	)	<b>NOTICE OF MODIFIED</b>
<b>IDAHO CODE § 61-333(1).</b>	)	<b>PROCEDURE</b>
_____	)	
	)	<b>ORDER NO. 29284</b>

On June 20, 2003, United Electric Co-op, Inc. and each of the three parties identified above filed three Applications for approval of their respective Service Territory Agreements pursuant to the Idaho Electric Supplier Stabilization Act (ESSA). In this proceeding, the Commission has consolidated the three Applications that United entered into with electric cooperatives East End Mutual Electric Company, Farmers' Electric Company, and Riverside Electric Company. United is the successor entity following the consolidation of Rural Electric Company and Unity Light & Power. The other three Co-ops are all electric non-profit corporations organized under the laws of Idaho. United and the three Co-ops supply electric service to their respective consumers in adjacent and contiguous service territories.

## NOTICE OF APPLICATIONS

Prior to the 2000 amendments of the ESSA, United and the three Co-ops had “an oral understanding relative to the respective service areas” of each electric supplier. Exhibit No. 1, ¶ 1.3. This year, United and each of the three Co-ops entered into a “Service Area Stabilization Agreement” thereby reducing their respective understandings to writing.

1. East End Mutual Electric Company. On May 30, 2003, East End and United entered into their Stabilization Agreement. The Agreement establishes separate service territories for each party. Each party is responsible for serving all new customers in their defined service areas. Exhibit No. 1 at ¶ 2. To the extent that either party is currently providing services to consumers within the service area assigned to the other party, the existing supplier shall continue to serve these pre-existing customers. *Id.* at ¶ 3; Exhibit No. 2.

The Agreement also recognizes that United has a substation located in the East End service territory. The parties agree that United is entitled to leave “the substation in the East End territory without being in violation of the Agreement, provided however, United shall not expand its customer base in the East End territory by virtue of having the substation so located.” *Id.* at ¶ 11.

The Agreement also states that there may be instances where it is more efficient for a new customer located in one service territory to be served by the other electric supplier. In such cases, the parties may enter

into a written agreement to permit the service of a new customer by [the] party whose distribution system is located in the service area of the other [supplier].... Such agreement shall be in writing, authorized by the respective governing board of each party, and when executed shall be appended to this agreement. The entering into such agreement is discretionary with either party and neither party shall have the right of action against the other for the exercise of such discretion.

*Id.* at ¶ 6.

2. Farmers’ Electric Company. On April 23, 2003, United and Farmers’ entered into their Stabilization Agreement. In the Agreement, the parties established separate territories for each party. Each party is responsible for serving all new customers in their defined service areas. Exhibit No. 1 at ¶ 2. To the extent that either party is currently providing services to

consumers within the service area assigned to the other party, the existing supplier shall continue to serve these pre-existing customers. *Id.* at ¶ 3; Exhibit No. 2.

The Agreement also states that there may be instances where it is more efficient for a new customer located in one service territory to be served by the other electric supplier. In such cases, the parties may enter

into a written agreement to permit the service of a new customer by [the] party whose distribution system is located in the service area of the other [supplier].... Such agreement shall be in writing, authorized by the respective governing board of each party, and when executed shall be appended to this agreement. The entering into such agreement is discretionary with either party and neither party shall have the right of action against the other for the exercise of such discretion.

*Id.* at ¶ 6.

3. Riverside Electric Company. On April 21, 2003, United and Riverside entered into their Stabilization Agreement. The Agreement establishes separate service territories for each party. Each party is responsible for serving all new customers in their defined service areas. Exhibit No. 1 at ¶ 2. To the extent that either party is currently providing services to consumers within the service area assigned to the other party, the existing supplier shall continue to serve these pre-existing customers. *Id.* at ¶ 3; Exhibit No. 2.

The Agreement also states that there may be instances where it is more efficient for a new customer located in one service territory to be served by the other electric supplier. In such cases, the parties may enter

into a written agreement to permit the service of a new customer by [the] party whose distribution system is located in the service area of the other [supplier].... Such agreement shall be in writing, authorized by the respective governing board of each party, and when executed shall be appended to this agreement. The entering into such agreement is discretionary with either party and neither party shall have the right of action against the other for the exercise of such discretion.

*Id.* at ¶ 6.

The parties also agreed that Riverside may construct an “express feeder” within United’s territory. The parties agreed that construction of the express feeder “shall not be construed as to allow Riverside to hook up new customers in that area, but is limited to the

construction, operation and maintenance of an express feeder.... The construction, maintenance and operation of any express feeder shall be subject to United's specifications for clearance and other construction." Exhibit No. 1 at ¶ 4. Finally, Exhibit No. 2 to the Agreement contained the names of Riverside and United consumers that are located in the territory of the other party. As recited in paragraph 11, the parties "will use good faith efforts to exchange the customers so that the named customers are in the defined territory of each party. Absent an exchange the parties agree that the members may exist in the territory of the other until such time as events allow for the trade [of such customers]."

The three Applications state that the respective Agreements were negotiated to settle and establish service territories between the parties, to provide stability and safety in service to consumers, and to eliminate duplication of services. Applications at ¶ 3. Because their oral agreements predate the 2000 amendments to the ESSA, the parties now request that the Commission approve their respective Service Area Stabilization Agreements.

#### **THE ESSA**

The purpose of the ESSA is to promote harmony among and between electric suppliers furnishing electricity within Idaho. More specifically, the ESSA: (1) prohibits the "pirating" of consumers already served by another supplier; (2) discourages duplication of electric facilities; (3) actively supervises certain conduct of electric suppliers; and (4) stabilizes the territories and consumers served by such electric suppliers. *Idaho Code* § 61-332. Under the ESSA, all agreements or contracts for the allocation of service territories or consumers shall be filed with the Commission. *Idaho Code* § 61-333(1).

United and the three Co-ops are defined as "electric supplier[s]" under the ESSA. *Idaho Code* § 61-332A(2,4). *Idaho Code* § 61-333(1) provides that any electric supplier may contract with any other electric supplier for the purpose of "allocating territories, consumers, and future consumers ... and designating which territories and consumers are to be served by which contracting electric supplier." This section further provides that the Commission may, after notice and opportunity for hearing, "approve or reject contracts between cooperatives...." The Commission "shall approve such contracts only upon finding that the allocation of territories or consumers is in conformance with the provisions and purposes of" the ESSA. *Id.*; 61-334B.

## NOTICE OF MODIFIED PROCEDURE

YOU ARE HEREBY NOTIFIED that *Idaho Code* § 61-333(1) requires electric suppliers to file all contracts that allocate service territories, consumers, or future consumers with the Commission. This section further provides that the Commission shall approve all such contracts if they are in conformance with the provisions and purposes of the ESSA. See also *Idaho Code* § 61-334B.

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through -204.

YOU ARE FURTHER NOTIFIED that for purposes of reviewing the three Agreements, the Commission has determined that it is reasonable to consolidate them in a single proceeding.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on any one of these Applications or all three Applications may file a written comment in support or opposition with the Commission within twenty-one (21) days from the service date of this Order. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning any one of these Applications or all three Applications shall be mailed to the Commission and the Applicants at the addresses reflected below:

COMMISSION SECRETARY  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074

Street Address for Express Mail:

472 W WASHINGTON ST  
BOISE, ID 83702-5983

WILLIAM A. PARSONS  
PARSONS, SMITH & STONE, LLP  
PO BOX 910  
BURLEY, ID 83318  
[wparsons@pmt.org](mailto:wparsons@pmt.org)

Attorney for United Electric Co-op

GOODMAN & BOLLAR  
PO BOX D  
RUPERT, ID 83350

Attorneys for East End, Farmers' and Riverside

Comments pertaining to a particular application should contain the specific case caption and case number shown on the first page of this document. Comments related to all three Applications should contain all three case numbers shown on the first page of this document.

Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at [www.puc.state.id.us](http://www.puc.state.id.us). Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be sent to the Applicants at the e-mail address listed above, if available.

YOU ARE FURTHER NOTIFIED that the Applications in Case Nos. GNR-E-03-4, GNR-E-03-7, GNR-E-03-8 can be reviewed at the Commission's office and at the Commission's web site [www.puc.state.id.us](http://www.puc.state.id.us) under the "File Room" icon.

YOU ARE FURTHER NOTIFIED that all proceedings in these cases will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and specifically *Idaho Code* §§ 61-332, 61-333(1), and 61-334B.

YOU ARE FURTHER NOTIFIED that all proceedings in these cases will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

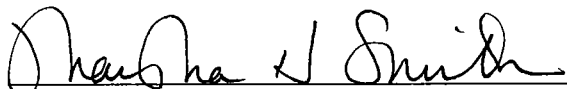
### **ORDER**

IT IS HEREBY ORDERED that these Applications be consolidated and processed under Modified Procedure. Persons interested in submitting written comments regarding any or all of these Applications should do so within 21 days of the service date of this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 7<sup>th</sup>  
day of July 2003.



PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell  
Commission Secretary

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